

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

#17  
B. Weber  
5/31/01

In re Reissue Application of:  
U.S. Patent No. 5,750,338

Mark L. Collinset al.

Reissue Serial No. 09/533,906

Reissue Application Filed: March 8, 2000

For: TARGET AND BACKGROUND  
CAPTURE METHODS WITH  
AMPLIFICATION FOR AFFINITY  
ASSAYS

Group Art Unit: 1655

Examiner: D. Johannsen

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**SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT  
FOR PROTEST UNDER 37 CFR § 1.291**

**ATTENTION: REISSUE LITIGATION BOX 7**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

The following information is brought to the attention of the Examiner relative to examination of the above-identified application. The item listed on the attached form PTO-1449 is submitted pursuant to 37 C.F.R. 1.291(c). A copy of the cited reference is enclosed for the convenience of the Examiner.

This Supplemental Information Disclosure presents additional prior art and raises new issues which could not have been presented earlier because it addresses issues raised in Applicant's Response to Interview Summary filed on January 31, 2001.

**CERTIFICATE OF DELIVERY**

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being hand delivered to Group Art Unit 1655 on the date shown below, addressed to the Commissioner for Patents, Reissue Litigation Box 7, Washington, D.C. 20231

8/25/01  
Date of Delivery

ROGER HERPPE  
Name of Person Delivering Paper  
[Signature]  
Signature of Person Delivering Paper

09533906-030600

Re: U.S. Serial No. 09/533,906  
Protestor's Supplemental IDS

The following is a concise explanation of the relevance of the cited reference.

**U.S. Patent No. 4,957,858 (Chu *et al.*)** discloses assay methods for nucleic acids employing a reporter group (RNA) capable of being autocatalytically replicated by and RNA-dependent RNA polymerase, such as the replicase of bacteriophage Q $\beta$ . This reference discloses that the amplification method of the assay is typically carried out on a sample which is a processed specimen, derived from a raw specimen by various treatments to remove materials that would interfere with detection of analyte (column 7, lines 10-17). In this regard, and more particularly, the reference states that the amplification method of the assay can be carried out on nucleic acids isolated from a specimen and deposited onto solid supports, such as by using a variety of known methods (column 7, lines 24-38).


The face of U.S. Patent No. 4,957,858 *mistakenly* indicates that application no. 852,692 was filed on April 16, 1988. However, reference AU B 73068/87, filed by Applicant on January 31, 2001 with a Supplemental Information Disclosure Statement, shows that application no. 852,692 was filed on **April 16, 1986**. That is, US application no. 852,692, from which U.S. Patent No. 4,957,858 issued, was the priority document, filed April 16, 1986, for reference AU B 73068/87. Protestor has confirmed that a certificate of correction has been filed establishing the correct priority date of U.S. Patent No. 4,957,858 as April 16, 1986 (copy provided). Thus, U.S. Patent No. 4,957,858 is prior art to this reissue application under 35 U.S.C. § 102(e).

Re: U.S. Serial No. 09/533,906  
Protestor's Supplemental IDS

This information has been served on applicant in accordance with 37 C.F.R.  
1.248, as indicated by the attached proof of service.

Respectfully submitted,

Date: March 23, 2001

By:   
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